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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,616	02/19/2004	Gerardus J. Brouwer	8494-21	3166

7590 04/07/2006

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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3641

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/780,616	BROUWER ET AL.	
	Examiner	Art Unit	
	Christopher J. Novosad	3641	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 7-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>111204</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

In view of Applicant's election **without traverse** of the Group I invention (claims 1-8 and 25), and the additional election of Species II (Figures 3-9) within said Group I (claims 1, 2, 5, 6 and new claim 25) in the reply filed on February 2, 2006, **claims 3, 4 and 7-24 stand withdrawn** from further consideration under 37 CFR 1.142(b) as being drawn to non-elected inventions and species. Claim 1 is generic to the elected invention.

Accordingly, an action on the claims (Claims 1, 2, 5, 6 and new claim 25) of the elected Species II (Figures 3-9) within the Group I invention is set forth below.

### *Claim Rejections – 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section of this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hummer (U.S.P. 6,112,680).

Regarding claim 1, Hummer discloses a method of handling sod (grass turf 12, col. 4, lines 14-20) having grass blades (unnumbered) projecting upwardly therefrom, comprising gripping at least an upper portion of said sod (12) between opposing portions (opposing actuator rods 42) of a clamp and moving said clamp (opposing rods 42) with said sod (12) suspended from said clamp.

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As shown in Fig. 4 of Hummer, in actuating the rods from their retracted to their extended positions, the rods 42 of actuators 40a in line 50d oppose or move in opposition to the rods 42 of actuators 40b in line 50c when actuated to penetrate the sod. In this manner the opposing rods 42, as noted above, act as opposing portions of a clamp to grip and suspend the sod, as broadly called for in the claim, for lifting, moving and positioning the suspended sod to another location.

With respect to claim 2, the clamp of Hummer (opposing actuator rods 42 as noted above) necessarily clamps the grass blades of the sod.

Regarding claim 5, Hummer shows "at least two said clamps" being used. In this respect, Figs. 4 and 5 of Hummer show a plurality of pairs of opposing actuator rods 42, as noted above, being used.

With regard to claims 6 and 25, Hummer (Figs. 1 and 2, col. 4, lines 32-40) discloses the steps of lowering the clamps (lowering the opposing actuator rods 42, as noted above, by means of frame 20) onto said sod with the clamps open (actuator rods 42 in retracted position), closing said clamps (actuating the rods 42 into their extended positions) to grip said sod, lifting said clamps to raise said sod (12), and then moving said clamps to move said sod (12).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached at 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad  
Primary Examiner  
Art Unit 3641

April 3, 2006